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In re Application of
LE ROY et al
U.S. Application No.: 10/583,845
PCT No.: PCT/FR2004/003104
Int. Filing Date: 02 December 2004
Priority Date: 13 December 2003
Attorney Docket No.: PF030187
For: IMAGE DISPLAY SCREEN AND
METHOD FOR ADDRESSING SAID
SCREEN

DECISION

This decision is in response to applicants' renewed petition under 37 CFR 1.47 filed 13 March 2009.

BACKGROUND

On 16 January 2009, a decision dismissing applicants' 37 CFR 1.47(a) petition was mailed. Applicants were given two months to respond.

On 13 March 2009, applicants filed a renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, documentary evidence in support of the renewed petition with accompanying English translations.

DISCUSSION

Applicants' original petition under 37 CFR 1.47(a) was dismissed for failing to show that a complete copy of the above-captioned application including specification, claims and drawings were presented to the nonsigning inventor. As such, the purported written refusal by the nonsigning inventor mailed 03 July 2008 could not be accepted.

In the renewed petition, the 37 CFR 1.47(a) applicants claim that a complete copy of the subject application was sent to the nonsigning inventor to the last known address of Mr. Ammardji on 24 February 2009 by mail. Applicants gave Mr. Ammardji until 02 March 2009 to respond. An email was also mailed the same day also requesting that he respond by 02 March 2009. Applicants sent the nonsigning inventor another email on 05 March 2009 requesting that the nonsigning inventor return the attached documents before 12 March 2009.

Copies of the emails and the letters with accompanying English translations were provided. In addition, two pages from Google People Search for "Fabien Ammardji" were attached along with another declaration by Florence Pac.

This evidence is insufficient to satisfy item (2) of 37 CFR 1.47(a) for the following reasons.

The deadline to respond listed on the second email dated 05 March 2009 was extended to 12 March 2009. However, applicants signed the "Certificate of Mailing Under 37 CFR 1.8" for the subject petition on 10 March 2009. As such, the petition is premature.

There is also no evidence of receipt of the letter mailed 24 February 2009, or either of the two emails. Applicants did not include a copy of the postal receipt signed by the nonsigning inventor, or an email acknowledgment of receipt with the renewed petition. Thus, there is no evidence that the nonsigning inventor received a copy of the application as required to show a refusal to cooperate.

Further, applicants state in the renewed petition that the nonsigning inventor has been located and refuses to cooperate. However, the declaration of Florence Pac indicates that they "still have not located" Mr. Ammardji. If applicants are claiming that the nonsigning inventor cannot be located at this time¹, the procedures outlined in section 409.03(d)(I) of the MPEP must be followed. These procedures include a statement of facts by a person with firsthand knowledge detailing the exact facts which are relied upon to establish that a diligent effort was made to locate the nonsigning inventor along with any documentary evidence to support the claim. The two Google People search pages included with the renewed petition will not satisfy this requirement.

For these reasons, item (2) of 37 CFR 1.47(a) is not yet satisfied.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

¹ The email sent by the nonsigning inventor on 03 July 2008 states that he is working in the merchant marine and is currently at sea.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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